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MONTANA LEGISLATIVE HISTORY

Chapter 578 1993

Bill H 679 S _____ Original bill & history X C

H. Committee on HIGHWAYS & TRANSPORTATION			S. Committee on HIGHWAYS & TRANSPORTATION		
Hearing Date(s) & EXEC. ACTION	3/26	X C	Hearing Date(s) & EXEC. ACTION	4/6	X C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes X No

Committee _____ Report _____

4/02	HEARING		
4/05	COMMITTEE REPORT—BILL CONCURRED		
4/06	2ND READING CONCURRED	48	2
4/07	3RD READING CONCURRED	44	5
	RETURNED TO HOUSE		
4/19	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/21	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 518		
	EFFECTIVE DATE: 04/24/93		

B 675 INTRODUCED BY BERGSAGEL

REVISE USE OF INMATE LABOR FOR CONSTRUCTION PROJECTS

BY REQUEST OF JOINT SUBCOMMITTEE ON LONG-RANGE PLANNING

3/11	INTRODUCED		
3/11	REFERRED TO APPROPRIATIONS		
3/11	FIRST READING		
3/15	HEARING		
3/17	COMMITTEE REPORT—BILL PASSED		
3/23	2ND READING PASSED	50	49
3/24	3RD READING FAILED	49	49

IB 676 INTRODUCED BY FISHER, ET AL.

APPROPRIATE MONEY FROM RESOURCE INDEMNITY TRUST FUND INTEREST TO DEPARTMENT OF JUSTICE

BY REQUEST OF JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

3/11	INTRODUCED		
3/11	REFERRED TO APPROPRIATIONS		
3/11	FIRST READING		
3/15	HEARING		
3/15	TABLED IN COMMITTEE		

IB 677 INTRODUCED BY R. JOHNSON, ET AL.

TRANSFER TRAFFIC EDUCATION FUNDS TO VOCATIONAL EDUCATION AND GIFTED AND TALENTED PROGRAMS

BY REQUEST OF HOUSE APPROPRIATIONS COMMITTEE

3/12	INTRODUCED		
3/12	REFERRED TO APPROPRIATIONS		
3/12	FIRST READING		
3/12	FISCAL NOTE REQUESTED		
3/15	HEARING		
3/17	COMMITTEE REPORT—BILL PASSED		
3/20	FISCAL NOTE RECEIVED		
3/20	FISCAL NOTE PRINTED		
3/23	2ND READING PASSED	55	42
3/24	3RD READING PASSED	49	46
	TRANSMITTED TO SENATE		
3/26	FIRST READING		
3/26	REFERRED TO FINANCE & CLAIMS		
4/05	HEARING		
4/06	TABLED IN COMMITTEE		

HB 678 INTRODUCED BY KASTEN, ET AL.

LIMIT GAMBLING LICENSE ACCOUNT TRANSFER TO GENERAL FUND

BY REQUEST OF HOUSE APPROPRIATIONS COMMITTEE

3/12	INTRODUCED		
3/12	REFERRED TO APPROPRIATIONS		
3/12	FIRST READING		
3/12	FISCAL NOTE REQUESTED		
3/15	HEARING		
3/16	COMMITTEE REPORT—BILL PASSED		
3/17	FISCAL NOTE RECEIVED		
3/17	FISCAL NOTE PRINTED		
3/23	2ND READING PASSED	81	14
3/24	3RD READING PASSED	86	14
	TRANSMITTED TO SENATE		
3/26	FIRST READING		
3/26	REFERRED TO FINANCE & CLAIMS		
3/31	HEARING		
4/06	TABLED IN COMMITTEE		

HB 679 INTRODUCED BY CLARK, ET AL.

REVISE LAW RELATING TO OFF-HIGHWAY VEHICLE USE

BY REQUEST OF HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE

3/12	INTRODUCED		
3/12	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/12	FIRST READING		
3/12	FISCAL NOTE REQUESTED		
3/17	FISCAL NOTE RECEIVED		
3/17	FISCAL NOTE PRINTED		
3/26	HEARING		
3/29	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/30	2ND READING PASSED	91	8
4/01	3RD READING PASSED	87	11
	TRANSMITTED TO SENATE		
4/02	ON MOTION RULES SUSPENDED TO ALLOW LATE TRANSMITTAL OF BILL	47	0
4/02	FIRST READING		
4/02	REFERRED TO HIGHWAYS & TRANSPORTATION		
4/06	HEARING		
4/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCUR MOTION FAILED	18	26
4/14	2ND READING INDEFINITELY POSTPONED	24	23
4/14	RECONSIDERED PREVIOUS ACTION AND PLACED BACK ON 2ND READING	35	14
4/15	2ND READING CONCURRED AS AMENDED	49	0
4/15	3RD READING CONCURRED	44	5
	RETURNED TO HOUSE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	94	5
4/19	3RD READING AMENDMENTS CONCURRED	90	8
4/21	SIGNED BY SPEAKER		
4/22	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 578		
	EFFECTIVE DATE: 10/01/93		

HOUSE BILL NO. 679

INTRODUCED BY CLARK, WEEDING, GALVIN, SIMPKINS, BURNETT, WYATT, GRINDE, SAYLES, RYE, GAGE, T. NELSON, SIMON, D. BROWN, HERTEL, REHBEIN, HARRINGTON, VOGEL, SWANSON, M. HANSON, SQUIRES, DRISCOLL, HIBBARD, TVEIT, STRIZICH, LARSON, SWIFT, JERGESON, KEATING, RYAN, KOEHNKE, MILLS, J. RICE, ELLIS, TASH, WANZENRIED, SPRING, PAVLOVICH, MCCAFFREE, J. JOHNSON, KNOX, ANDERSON, MENAHAN, GILBERT, KELLER, ROSE, SMITH, SCHYE, DAILY, GERVAIS, HAYNE, BERGMAN, DOWELL, MCCLERNAN, REA, BRENDEN, HALLIGAN, COBB, HANSEN, BARNETT, STANG, B. BROWN, BECK, DEVLIN, STANFORD, PETERSON, L. NELSON, MASON, BIRD, TOWE, STOVALL, DEBRUYCKER, QUILICI, ENDY, DAVIS, REAM
BY REQUEST OF THE HOUSE HIGHWAYS COMMITTEE

IN THE HOUSE

MARCH 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 29, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 30, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 31, 1993	ENGROSSING REPORT.
APRIL 1, 1993	THIRD READING, PASSED. AYES, 87; NOES, 11.
	TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 2, 1993	ON MOTION, RULES SUSPENDED TO ALLOW LATE TRANSMITTAL OF BILL.
	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
APRIL 13, 1993	COMMITTEE RECOMMEND BILL BE

	CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 14, 1993	SECOND READING, NOT CONCURRED IN.
	SECOND READING, INDEFINITELY POSTPONED.
	ON MOTION, PREVIOUS ACTION RECONSIDERED.
APRIL 15, 1993	SECOND READING, CONCURRED IN AS AMENDED.
	THIRD READING, CONCURRED IN. AYES, 44; NOES, 5.
	RETURNED TO HOUSE WITH AMENDMENTS.
IN THE HOUSE	
APRIL 16, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 19, 1993	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

LC 1567/01

House BILL NO. 679

INTRODUCED BY

BY REQUEST OF THE HOUSE HIGHWAYS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO OFF-HIGHWAY VEHICLE USE; ALLOWING OFF-HIGHWAY VEHICLE USE ON CERTAIN FOREST AND BUREAU OF LAND MANAGEMENT ROADS; ALLOWING OFF-HIGHWAY VEHICLES TO CROSS PUBLIC ROADS UNDER CERTAIN CONDITIONS; ESTABLISHING A STANDARD OF RESPONSIBILITY FOR OFF-HIGHWAY VEHICLE OPERATORS; PROVIDING FOR OFF-HIGHWAY VEHICLE SAFETY TRAINING AFTER 1994; APPROPRIATING FEDERAL FUNDS FOR OFF-HIGHWAY VEHICLE SAFETY TRAINING; AMENDING SECTIONS 17-7-502 AND 61-8-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-111, MCA, is amended to read:

"61-8-111. State laws applicable on certain forest development roads -- enforcement -- exceptions. (1) Forest Except as provided in subsection (2), forest development roads in the state, whether or not they meet the definition of a public highway by the laws of this state, are subject to the traffic laws of this state, and the Montana highway patrol and county sheriffs of this state shall have jurisdiction thereon to investigate accidents and enforce the Montana traffic laws on those roads.

(2) Exceptions to regulation under subsection (1) for off-highway vehicle use may be permitted at the discretion and determination of the United States forest service when the following conditions are met:

(a) The exception is authorized by the forest supervisor.

(b) The exception is properly signed.

(c) The off-highway vehicle has a valid registration decal.

(d) The off-highway vehicle and the operation of the vehicle comply with 36 CFR 261.13.

(e) An unlicensed off-highway vehicle operator is accompanied by a licensed, responsible adult.

(f) Each off-highway vehicle operator and passenger shall comply with the requirements of 61-9-417."

NEW SECTION. **Section 2.** **State laws applicable on certain bureau of land management roads -- exceptions.** (1) Exceptions to the traffic laws of this state for roads on land in this state owned by the U.S. bureau of land management may be permitted at the discretion and determination of the U.S. bureau of land management when the following conditions are met:

(a) The exception is authorized by the district supervisor.

HB 679
INTRODUCED BILL

(b) The exception is properly signed.

(c) The off-highway vehicle has a valid registration decal.

(d) The off-highway vehicle and the operation of the vehicle comply with 43 CFR 8340.

(e) An unlicensed off-highway vehicle operator is accompanied by a licensed, responsible adult.

(2) Each off-highway vehicle operator and passenger shall comply with the requirements of 61-9-417.

NEW SECTION. **Section 3. Off-highway crossings of public roads.** An off-highway vehicle may make a direct crossing of a public road when the crossing is necessary to get to another authorized area of operation. The crossing must be made at an angle of approximately 90 degrees to the direction of traffic at a place where no obstruction prevents a quick and safe crossing. The off-highway vehicle must make a complete stop before entering upon any part of the traffic way, and the operator shall yield the right-of-way to all oncoming traffic.

NEW SECTION. **Section 4. Off-highway vehicle operator responsibilities.** (1) An off-highway vehicle operator shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of off-highway vehicle use and shall regulate personal conduct at all times so that injury

to self or other persons or property that results from the risks inherent in the sport of off-highway vehicle operation is avoided.

(2) Risks inherent in the sport of off-highway operation include variations in terrain, surface or subsurface conditions, crevices, ravines, streams, poor visibility, rocks, trees, other forms of forest growth or debris, and any other natural hazard.

(3) An off-highway vehicle operator is responsible for:

(a) knowing the range of the operator's ability to navigate any slope, trail, or area for off-highway vehicle use within the limits of the operator's ability, taking into consideration the conditions;

(b) maintaining control of speed and course at all times while operating the off-highway vehicle;

(c) heeding all posted warnings; and

(d) refraining from acting in a manner that may cause or contribute to the injury of anyone.

(4) The provisions of this section do not affect a products liability cause of action based upon the design or manufacture of off-highway equipment or products or safety equipment used incidental to the operation of an off-highway vehicle.

NEW SECTION. **Section 5. Off-highway vehicle safety education training program -- appropriation.** (1) There is an

off-highway vehicle safety education training program. Beginning October 1, 1994, the department of fish, wildlife, and parks shall coordinate the program as funds are available.

(2) Beginning October 1, 1994, the department of justice shall transfer to the department of fish, wildlife, and parks all money available for the program under 23 U.S.C. 402.

(3) There is an account in the state special revenue fund in which all money received for the administration of the off-highway vehicle safety education training program must be deposited. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of fish, wildlife, and parks for the administration of the program.

Section 6. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be

listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; [section 5]; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of

Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

NEW SECTION. **Section 7.** Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 61, chapter 8, part 1, and the provisions of Title 61, chapter 8, part 1, apply to [section 2].

(2) [Sections 3 through 5] are intended to be codified as an integral part of Title 23, chapter 2, part 8, and the provisions of Title 23, chapter 2, part 8, apply to [sections 3 through 5].

NEW SECTION. **Section 8.** Effective date. [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0679, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act revising the law relating to off-highway vehicle use; allowing off highway vehicle use on certain U. S. Forest Service and Bureau of Land Management roads; allowing off-highway vehicles to cross public roads under certain conditions; establishing a standard of responsibility for off-highway vehicle operators; providing for off-highway vehicle safety training after 1994 and appropriating federal funds for off-highway vehicle safety training.

ASSUMPTIONS:
1. According to the Highway Traffic Safety Division, Department of Justice, the amount of federal funds available for this program is unknown at this time.
2. The Department of Fish, Wildlife and Parks (FWP) will receive Federal Highway Administration funds through a contract with the Highway Traffic Safety Division.
3. When the federal funds become available, FWP will establish the format for the off-highway vehicle safety training program. This will be accomplished with current level department staff.

FISCAL IMPACT:
Department of Fish, Wildlife and Parks:
No fiscal impact in FY94. The program could start in FY95, but the funding amount is unknown.

Highway Safety Division, Department of Justice:
A portion of the funds transferred by the United States Code part 23, Section 402 potentially provided through Section 153 penalty provisions contained in the Intermodal Surface Transportation Efficiency Act of 1991 would be used to fund this program.

TECHNICAL NOTES:
New section 5(3) should establish a federal special revenue fund instead of a state special revenue fund, because the revenue to fund the safety program will be from the Federal Highway Administration.

Dave Lewis 3-17-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Robert C. Clark 03/17/93
ROBERT C. CLARK, PRIMARY SPONSOR DATE

Fiscal Note for HB0679, as introduced

HB 679

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN ROBERT CLARK**, on March 26, 1993, at 3:30 p.m.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Karyl Winslow, Vice Chairman (R)
Rep. Shiell Anderson (R)
Rep. Joe Barnett (R)
Rep. Bill Endy (D)
Rep. David Ewer (D)
Rep. Pat Galvin (D)
Rep. Marian Hanson (R)
Rep. Vern Keller (R)
Rep. Don Larson (D)
Rep. Bill Ryan (D)
Rep. Wayne Stanford (D)
Rep. Bill Tash (R)
Rep. Randy Vogel (R)
Rep. Tim Whalen (D)

Members Excused: None.

Members Absent: Rep. Gary Mason (R)

Staff Present: Connie Erickson, Legislative Council
Kimberlee Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 417, HB 679, SB 255
Executive Action: SB 255, SB 417, HB 679, SB 416

HEARING ON SB 417

Opening Statement by Sponsor:

SEN. CECIL WEEDING, SD 14, Jordan, stated SB 417 was being presented at the request of the Department of Transportation. This bill helps the Department organize the refund from the gas

tax. This will allow them to setup rules and establish a minimum level of reimbursement.

Proponents' Testimony:

Bill Salisberry, Administrator, Administration Division, Montana Department of Transportation, spoke in favor of SB 417. **EXHIBIT 1**

Ronna Alexander, Montana Petroleum Marketer;s Association, spoke in favor of SB 417.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SEN. WEEDING thanked the committee for the hearing and closed.

HEARING ON HB 679

Opening Statement by Sponsor:

REP. ROBERT CLARK, HD 31, Ryegate, stated HB 679 is an act revising the law relating to off-road vehicle use. This bill establishes responsibility of the off-road vehicle operators. It will also provide for off-road vehicle safety training after the year 1994. This bill will help us recover some of the federal funds lost from the motorcycle helmet law.

Proponents' Testimony:

Doug Abelin, Montana Trail Vehicle Rider's Association, spoke in favor of HB 679. **EXHIBIT 2**

Dal Smilie, Chairman, Montana Motorcycle Safety Advisory Committee, spoke in favor of HB 679. **EXHIBITS 3 and 4**

Pat Foley, Land-Use Coordinator, Capital Trail Vehicle Association, spoke in favor of HB 679. **EXHIBIT 5**

Pat Riley, ABATE of Montana, spoke in favor of HB 679.

Darrell McDaniel, Bureau of Land Management, spoke in favor of HB 679.

Arnold Olsen, Administrator, State Parks Division, Department of Fish, Wildlife and Parks, spoke in favor of HB 679. **EXHIBIT 6**

Linda Ellison, Montana Trail Vehicle Rider's Association, spoke in favor of HB 679.

Opponents' Testimony:

Ernie Nunn, Forest Service, speaking on behalf of David Jolly, Regional Forester, discussed the Forest Service's opposition to HB 679. **EXHIBIT 7**

John Gatchell, Montana Wilderness Association, stated that his objections are with the provisions in sections 1 and 2. This would allow unlicensed vehicles to travel public roads. The bill would increase enforcement problems by adding to areas where unlicensed vehicles are allowed. We do not have a problem with motorcycles or ATVs which are licensed.

Janet Ellis, Montana Audubon Legislative Fund, stated we do not have a problem with the safety program. We do have a problem with provisions in sections 1 and 2 and propose they be struck from the bill.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. ANDERSON asked what are the funds mentioned on page five of the bill. **Doug Abelin** stated that section allows that the money given to the Highway Safety Division be transferred to Fish, Wildlife and Parks to fund the safety program.

REP. ANDERSON asked how much money will that be when the funds become available. **Mr. Abelin** stated that on the fiscal note the total amount of funds for this is not available at this time.

REP. ANDERSON asked if anyone had spoken to people at the Department of Justice. **Al Goke** stated ISTEA had a provision in it that all states must have a motorcycle helmet law. If that law did not pass 1.5% of federal dollars to the Department of Transportation would be diverted to the 402 program. He stated there is no way to estimate the amount of that money. The money is not matching funds, it is pure federal monies.

REP. ANDERSON asked if there was already money available for the traffic safety program. **Mr. Goke** said yes.

REP. ANDERSON asked if **Mr. Goke** could give the committee an estimate of the funds. **Mr. Goke** replied that, based on construction monies this year, he would guess it would be approximately $1.5 million.

REP. VOGEL asked how much land is under his supervision in the Helena National Forest. **Mr. Nunn** replied approximately one million acres.

REP. VOGEL asked if there are trails available. **Mr. Nunn** answered, yes.

REP. VOGEL asked if the trails could be limited to unlicensed drivers. **Mr. Nunn** said yes.

REP. VOGEL asked if **REP. CLARK** could define a responsible adult. **REP. CLARK** stated that most parents are responsible, however, some are not. He also stated he has amendments to propose. **EXHIBIT 8**

REP. VOGEL asked if it could "accompanied by a licensed adult" rather than "responsible licensed adult". **REP. CLARK** stated that could be put in the bill.

REP. VOGEL asked if we are creating a new traffic offense on page 3, section 3, line 10. **REP. CLARK** stated these are the rules for snowmobiles now.

REP. VOGEL asked if we are adopting a new statute, do we need to establish a penalty or will this automatically be under the snowmobile rules. **REP. CLARK** stated this would be covered under current code.

REP. TASH asked if the statutory appropriations apply to safety. **Mr. Goke** stated that applies to all statutes.

REP. TASH asked if the appropriation only dealt with safety. **Mr. Goke** said that, according to his understanding, it would.

REP. TASH asked if there are any statutory appropriations with regard to noxious weed control? **Mr. Foley** stated one of the intentions of the safety program is to include natural resource control.

REP. TASH asked if there were any allowances for noxious weed control. **Mr. McDaniel** replied there are programs for noxious weed control.

REP. KELLER asked what would be the method of monitoring noxious

weed control. **Mr. Nunn** said it is handled through public education.

REP. WHALEN stated it appears sections 1 and 2 allow, through cooperative agreement, unlicensed off-highway vehicles on these roads and asked if that was correct? **REP. CLARK** replied in the affirmative.

REP. WHALEN asked what the rational was for allowing unlicensed vehicles on these roads. **REP. CLARK** stated this is a training program to get them to operate in a safe manner.

REP. WHALEN asked if it only allows them to do this under the training program. **REP. CLARK** stated yes. **Mr. Abelin** stated we can't mandate the forest lands or the BLM lands. This would build a platform for an educational program. He also stated everyone is open to discussion and amendments.

REP. WHALEN asked what is the intent of sections 1 and 2. **Mr. Abelin** stated it is not our intent to waive Montana law, merely to change it in order for us to be able to ride lower level roads. We are negotiable on the unlicensed driver issue.

REP. EWER asked if the intent was to bridge trail head to trail head. **Mr. Abelin** stated that is the intent of part of the bill.

REP. EWER asked if the second intent was to enable people to use these vehicles safely. **Mr. Abelin** stated the safety portion of the bill is to encourage people to become safe operators.

REP. EWER asked if there are many situations where people have to break state law to go from trail head to trail head. **Mr. Nunn** replied, yes, there are cases.

REP. EWER stated this would be a "catch 22" situation.

REP. EWER asked if the two main purposes of the bill are safety and trail head to trail head. **REP. CLARK** stated the safety issue is the main purpose of the bill.

REP. EWER indicated currently, if a bike is used off the road, you have a decal. He asked if, on the road, you need a license plate.

REP. CLARK stated the bike is only required to have a decal and be registered with the state.

REP. EWER asked if these decals are visible. **REP. CLARK** stated no, you can't read them from a distance.

REP. EWER asked why there is an immediate effective date. **REP. CLARK** stated there is an amendment to take care of that.

REP. VOGEL asked if this bill just pertains to the training. **Ms. Lodman** stated our hope is to provide training to anyone who would want training, however, specifically for youth.

REP. VOGEL asked doesn't the manufacturer of these vehicles warn that no one under age 14 should be on these vehicles. **Ms. Lodman** stated the ages are from 12 to 16. She stated we would follow the manufacturer's request.

REP. VOGEL asked, on page two, line four where it says responsible adult, what does "accompanied" mean?
REP. CLARK stated it could mean on the same machine but in most cases it would be on a separate machine. The intent is for an adult to be with the minor.

REP. TASH asked how will the funds being transferred to Fish, Wildlife and Parks be used. **Mr. Olson** stated it hasn't been determined yet.

REP. TASH asked if the funds would be directed to safety. **Mr. Olson** said yes.

REP. TASH asked what is the view of the Fish, Wildlife and Parks about the noxious weed control issue. **Mr. Olson** replied the department is concerned about noxious weed control and does not off-road vehicle use.

REP. STANFORD asked if this safety program will be similar to the hunter's safety program. **Ms. Lodman** stated they hope it would be similar and that there will be training sites.

REP. ANDERSON asked if the money goes to the Highway Safety Division. **REP. CLARK** said yes.

REP. ANDERSON asked if it is appropriated by legislative action. **Mr. Goke** replied no.

Closing by Sponsor:

REP. CLARK, in closing, stated this bill is not perfect and it needs some work. He also stated he has no problem with the amendments, and believes the bill needs to get out of committee and we need to sit down with the people concerned and work out the problems.

EXECUTIVE ACTION ON SB 255

Motion: **REP. HANSON MOVED TO TAKE SB 255 OFF THE TABLE.**

EXECUTIVE ACTION ON HB 679

Motion: **REP. STANFORD MOVED HB 679 DO PASS.**

Discussion:

REP. CLARK asked what a maintenance level three was. **Mr. Abelin** stated the forest manual has five levels of roads; level five being paved and level one a trail.

REP. KELLER asked if the trails were not used at all. **Mr. Abelin** stated they already have the authority to use these trails.

REP. VOGEL asked if levels three, two, and one were enforced. **Mr. Abelin** replied that those are the enforced roads.

REP. WHALEN asked if, on road levels one, two, and three you will have to be licensed and levels four and five don't require you to be licensed. **Mr. Abelin** said that was correct.

REP. WHALEN stated in the bill you would have to negotiate permission with BLM or the U.S. Forest Service. **Mr. Abelin** stated it is their digression.

REP. ENDY stated he understood this would open roads the forest service has closed. **REP. CLARK** stated this is not to open closed roads it is to give access to roads currently open.

REP. TASH stated this bill is broad and needs to be tightened. This concern about the noxious weeds is a viable one. We need to take care of the roads that are designated.

REP. STANFORD stated what the big question is if we want people who are not licensed to use these roads.

REP. ANDERSON stated the issue of weeds is a large problem.

REP. WHALEN asked what section three addresses. **REP. CLARK** stated section 3 addresses the safety aspect of the bill, which is patterned after the snowmobile laws.

REP. STANFORD stated he doesn't feel this bill creates more of a problem than we already have.

REP. LARSON stated he sees several problems with this bill. The forest service in his area will not allow ATV's that are not street legal on their lands. There is an enforcement problem. We will be putting highway patrol out on all of these roads. **REP. CLARK** stated the highway patrol already has jurisdiction.

REP. CLARK said the forest service is willing to work with this

bill and so is the off-road vehicle associations.

REP. TASH stated he has a problem with the jurisdiction and the enforcement. **REP. CLARK** stated the problems with jurisdiction and enforcement are present now.

REP. VOGEL stated he disagrees with amendments two and three, which allow minors and unlicensed kids out on the roads.

REP. STANFORD stated children are already out there riding these off-road vehicles. Hopefully this bill will provide education.

REP. CLARK stated theses children are riding with or without their parents' permission. With this education we can teach them to wear helmets and how to safely operate the vehicles.

REP. VOGEL noted that this safety program doesn't start until 1994. He suggested that every young person out there be required to go through this training. **REP. CLARK** indicated he doesn't see any problem with that.

REP. VOGEL stated he would like to segregate numbers two, three, seven, and eight out of the amendments.

Motion/Vote: **REP. STANFORD MADE A SUBSTITUTE MOTION TO AMEND HB 679 AS STATED IN NUMBERS ONE, FOUR, FIVE, SIX, NINE, AND TEN OF THE AMENDMENTS.** Motion carried unanimously.

Discussion:

REP. CLARK said he would like to strike the immediate effective date.

Motion/ Vote: **REP. CLARK MADE A SUBSTITUTE MOTION TO AMEND HB 679 BY STRIKING THE IMMEDIATE EFFECTIVE DATE.** Motion carried unanimously. **EXHIBIT 9**

Discussion:

REP. VOGEL stated he would like to strike page 2, line 13 and line 14 and page 3, line 6 and 7. He also would like to amend that only unlicensed drivers who have successfully completed an off-road vehicle training program sponsored by the Fish, Wildlife and Parks could use these off-road vehicles.

Connie Erickson suggested to strike page 2 subsection E and on page 3 strike subsection E and in section 4 possibly add **REP. VOGEL'S** amendments.

REP. ANDERSON stated he feels the whole concept of this bill was so parents could take their children out and teach them to ride these off-road vehicles.

Motion/Vote: **REP. VOGEL MADE A SUBSTITUTE MOTION TO AMEND HB 679 AS SUGGESTED BY MS. ERICKSON.** Motion carried with **REPS. ENDY, STANFORD, ANDERSON, TASH,** and **EWER** voting no. **EXHIBIT 9**

Discussion:

REP. LARSON said he would like to amend HB 679, and that the amendment would help control the noxious weeds.

REP. CLARK indicated that, to date, the Forest Service has not agreed to what this bill is proposing.

REP. LARSON stated he would like all of these vehicles to meet the requirements requested by the Forest Service.

REP. CLARK stated they already do.

REP. LARSON asked what does the Forest Service require, a license plate or a decal. **Ms. Ellison** stated they would need a license plate.

REP. VOGEL asked if these off-road vehicles are required to have headlights while they are on the roads. Currently, as this bill is written, they are allowed to drive at night but are not required to have a headlight.

REP. ANDERSON stated he would like to speak against **REP. LARSON'S** amendments.

REP. TASH stated he feels this bill is a bad bill. There are two different things in this bill.

Motion/Vote: **REP. LARSON MOVED TO AMEND HB 679.** Motion failed.

Discussion:

Ms. Erickson explained the new amendments. **EXHIBIT 9**

Vote: **HB 679 DO PASS AS AMENDED.** Motion carried with **REPS. WINSLOW, WHALEN, TASH, EWER,** and **KELLER** voting no. **EXHIBIT 14**

EXECUTIVE ACTION ON SB 416

Motion/Vote: **REP. WHALEN MOVED TO RECONSIDER SB 416.** Motion carried with **REPS. WINSLOW, ANDERSON, TASH, HANSON,** and **KELLER** voting no. **EXHIBIT 15**

Motion: **REP. WHALEN MOVED SB 416 BE CONCURRED IN.**

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION **COMMITTEE**

ROLL CALL **DATE** March 26, 1993

NAME	PRESENT	ABSENT	EXCUSED
REP. KARYL WINSLOW - VICE CHAIR	✓		
REP. SHIELL ANDERSON	✓		
REP. JOE BARNETT	✓		
REP. BILL ENDY	✓		
REP. DAVID EWER	✓		
REP. PAT GALVIN - VICE CHAIR	✓		
REP. MARIAN HANSON	✓		
REP. VERN KELLER	✓		
REP. DON LARSON	✓		
REP. GARY MASON		✓	
REP. BILL RYAN	✓		
REP. WAYNE STANFORD	✓		
REP. BILL TASH	✓		
REP. RANDY VOGEL	✓		
REP. TIM WHALEN	✓		
CHAIR BOB CLARK	✓		

HOUSE STANDING COMMITTEE REPORT

March 29, 1993

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 679 (first reading copy -- white) do pass as amended .

Signed: Robert C. Clark, Chair

And, that such amendments read:

1. Title, line 13.
Following: "TRAINING;"
Insert: "AND"

2. Title, lines 13 and 14.
Strike: "; AND" on line 13 through "DATE" on line 14

3. Page 1, line 21.
Following: "state"
Insert: "that qualify as maintenance level 3 or greater in the United States forest service handbook"

4. Page 2, lines 13 and 14.
Strike: lines 13 and 14 in their entirety
Renumber: subsequent subsection

5. Page 2, line 18.
Following: "roads --"
Insert: "enforcement --"

6. Page 2, line 18.
Following: "exceptions."
Insert: "(1) Except as provided in subsection (2), U.S. bureau of land management roads in the state that qualify as collector roads in the U.S. bureau of land management manual, whether or not they meet the definition of a public highway by the laws of this state, are subject to the traffic laws of this state, and the Montana highway patrol and county sheriffs of this state have jurisdiction to investigate accidents and enforce the Montana traffic laws on those roads."
Renumber: subsequent subsections

Committee Vote:
Yes 13, No 5.

701144SC.Hpf

7. Page 2, lines 24 and 25.
Following: "by the" on line 24
Strike: remainder of line 24 through "supervisor" on line 25
Insert: "authorized officer"

8. Page 3, lines 6 and 7.
Strike: lines 6 and 7 in their entirety

9. Page 3, line 11.
Following: "roads."
Insert: "(1)"
Strike: "An"
Insert: "Except as provided in subsection (2), an"

10. Page 3, line 20.
Following: line 19
Insert: "(2) An off-highway vehicle may not be operated on or across a highway that is part of the federal-aid interstate system."

11. Page 3, line 21.
Following: "responsibilities"
Insert: " -- unlicensed operators"

12. Page 4.
Following: line 23
Insert: "(5) An unlicensed operator who has successfully completed the off-highway vehicle safety education training program offered by the department of fish, wildlife, and parks may operate an off-highway vehicle on a maintenance level 3 or greater forest service road under the direct supervision of a licensed adult."

13. Page 7, lines 20 and 21.
Strike: Section 8 in its entirety

-END-

EXHIBIT 2
DATE 3-26-93
HB 679

House Highways Committee
Chairman, Clark
March 25, 1993

What this bill does;

1. Revises Montana law pertaining to"Off-Highway Vehicle" use.

2. Determines which level of Forest Service & BLM roads are usable to OHV,s.

3. Allows the crossing of public roads and describes methods to properly do so; determines a Off-High vehicle may not be operated on or across a federal-aid interstate system road.

4. Determines that a OHV operator is responsible for his own injuries or damage resulting from risks inherent in the sport of OHV use; and promotes the safe personal operation of OHV so as to avoid injuries and damage of personal property.

5.Provides for a OHV "Safety Training Program" after 1994;appropriates Federal funds for OHV Safety training program; amending sections 17-7-502 and 61-8-111,MCA; and provides an immediate effective date.

By adopting this bill, the Legislature will provide a OHV program that will be safer for all parties; provide the youths of this state with the chance to improve their safety awareness, ethics, and environment education; teach them to understand and wear the best safety Management equipment, and to use their OHV in a safe and yet fun manner; help them learn to protect the opportunities that we as Montanan's have and enjoy. And last, but most important, is that this bill will also provide them with safety knowledge that might one day save theirs or someone elses life.

The best way to reduce the risks of OHV accidents is to have a system of trails, roads, and areas large enough to spread users out and therefore mimize impacts to the areas, and reduce the risks of running into each other. This bill will help us have those areas and opportunities.

Thanks, Doug Abelin

Memo'

Montana has about 18,000 parcels of land and under current law we cannot ride any of except on designated roads, of which there are none that we know of. Changing this law, as this bill asks may one day provide us with access to some of our own lands to ride. So we would not have to rely on the National Forests, and the BLM. But for now, thats all we have!

CURRENT MONTANA MOTOR VEHICLE CODES PERTAINING TO OHV USES.

March 7, 1993.

61-8-110 ; Forest developement roads; Special Service Roads; Defined!

(1) "Forest Developement Road;" Is defined as a; Road located on National Forest lands; or on Right-of-Way; aquired by USA and used for the Protection, Administration, and Utilization of the National Forests and other lands Administered by the US Forest Service.

(2) "Special Service Road;" is defined as a Forest developement road, or segment thereof, The Right-of-way for which is controlled by the US and which is not a part of the Highway System of the state or or of a county, or other public road authority of this state, designated by the forest service, persuant to the regulations of the Secretary of the United States department of Agriculture, as a special service road for the purpose of controlling and regulating its use to accomplish the purpose of the secretary of agriculture's regulations applicable to the administration of the forest development transport system.
history: En. Sec. 1, Ch. 139, L. 1971; R.C.M. 1947, 32-2124.3.

61-8-111. State laws applicable on forest development roads-enforcment. Forest development roads in the state, whether or not they meet the definition of a public highway by the laes of this state, are subject to the traffic laws of this state and the Montana highway patrol and county sheriffs of this state shall have jurisdiction thereon to investigate accidents and enforce the Montana traffic laws.
history: En. Sec. 2, Ch. 139, L. 1971; R.C.M. 1947, 32-2124.4.
Highway Patrol jurisdiction, Title 44, ch. 1, part 10. public highway, 61-1-202. Cross-References: Sheriffs department, Title 7, ch. 32, part 21.

61-8-112. Special service roads not subject to state law enforcement-when. When forest development roads, or segments thereof, are designated as special service roads by the United States forest service and by such designation are subjected to traffic rules in addition to or in conflict with the Montana traffic laws, neither the additional nor conflicting traffic rules so prescribed by the forest service nor the traffic law with which they conflict shall be within the jurisdiction of law enforcement officers of this state as to such special service road.
history: En. Sec. 3, ch 139, L. 1971; R.C.M. 1947, 32-2124.5.
cross-references Cession and retrocession of jurisdiction. Title 2, ch. 1, part2.

EXHIBIT 3
DATE 3-26-93
HB 679

March 26, 1993

TO: House Transportation Committee
FROM: Dal Smilie, Chairman Montana Motorcycle Safety advisory Committee
AMA Vice Chairman
RE: Testimony in Support of HB 679

Industry figures estimate that there are 22,400 off highway motorcycles in Montana. This does not count the 7,500 or so dual purpose motorcycles or tourist motorcycles.

These users enjoy the trails in Montana and contribute to the Montana economy. Their contribution is very similar to the contribution made by snowmobilers.

This bill provides for a much needed federally funded OHV safety program.

This bill sets out responsibility code like that in place for ski areas. This will protect both public land managers and private land owners who allow OHV use on their trails.

Montana motorcyclists have drafted and supported legislation to help upgrade and build trails with their user fees. Other funds are just becoming available from state and federal off road gas taxes. There should be increased interest in the use of the trail systems.

Off road users enjoy "loop" trails and trail heads that have a campground immediately available. Where those conditions do not exist short stretches of road connect the "loop" or lead from the campground.

HB 679 allows user groups and public land managers to <u>plan</u> the use of certain roads to create loops or access to adequate parking and camping. This act does not force any change in use but <u>allows</u> it <u>if and only if</u> public land managers approve.

Trail users have sought to implement similar plans but were told by federal land managers that state law was the problem. This bill would change state law so that such <u>planning could be agreed too</u>. It places no responsibility on federal land managers to agree, it just allows them the option.

The USFS has reviewed this proposal for two months. Wednesday they indicated they would oppose it because it is a <u>regional POLICY</u> to not allow more than one type of user on "two track" roads. Currently licensed autos, motorcycles, quadricycles, log trucks, horses, bicycles, hikers and skiers can use the same "two track" roads. Is the USFS going to segregate those users? Of course not.

The USFS has "de facto" allowed OHVs on these roads. They allow it in other states. HB 679 will merely make that lawful.

EXHIBIT 4
DATE 3-26-93
HB 679

AMERICAN MOTORCYCLIST ASSOCIATION

33 Collegeview Road, P.O. Box 6114, Westerville, Ohio 43081-6114
Telephone (614) 891-2425
Fax: (614) 891-5012

March 26, 1993

The Honorable Robert C. Clark
Chairman
House Highways and
Transportation Committee
State Capitol
Helena, Montana 59620

Dear Chairman Clark:

The American motorcyclist Association is the world's largest organization of motorcycling enthusiasts. On behalf of our Montana members, we write in support of H.B. 679, which would allow limited access to some designated Forest Service and Bureau of Land Management roads by unlicensed off-highway recreational vehicles.

Similar systems are already in place and operating well in Colorado, California and Utah. So far as we are aware, these programs have not caused any problems.

The legislation would allow the manager of the area to make the final decision on availability of routes. This course of action does appear to offer the appropriate safeguards.

On behalf of our Montana members, we respectfully request your support of H.B. 679. The bill provides for suitable access in an appropriate manner. Thank you for your time in this matter.

Sincerely,

Eric J. Lundquist
Legislative Affairs Specialist
Government Relations Department

EXHIBIT 5
DATE 3-26-93
HB 679

Supporting Testimony on HB679 by Pat Foley
Land Use Coordinator, Capital Trail Vehicle Association
Before the House Highways Committee
March 26, 1993

This testimony is in reference to Sections 1 and 2 of HB679 concerning certain types of allowable Off-Highway-Vehicle use on public lands in Montana. Currently, the majority of OHV trail systems within the state require some use of forest development or BLM roads to access riding areas, trail heads from staging, camping, or other riding areas. Also, many two-track primitive roads are illegal for non-licensed use, because they are classified as forest development roads, and as such are illegal for this appropriate use under state law.

Section 1 of HB679 allows the forest supervisor, under certain conditions, to designate certain sections of forest roads as plural use, to allow OHV access to these areas. This does not mandate plural use, rather it allows the supervisor to exercise discretion in such cases as might be acceptable. At this time, forest service personnel have repeatedly told the OHV community that their hands are tied concerning plural use because of state law. OHV'ers would be allowed to negotiate directly with the Forest Service when needed, without the extra layer of state regulation forbidding such action.

Section 2 clarifies allowable OHV operation on BLM roads. Currently, state law is not applicable to any roads on BLM land in Montana. This section would restrict OHV use to licensed vehicles and operators on collector-class roads, with exceptions permitted similar to Forest Service requirements.

At present, liability would rest on Montana for implicitly encouraging illegal use of forest development roads. When a family inquires at a district forest office and is told where to ride and where to camp, yet access to the riding area is impossible without currently illegal use of the access road, the responsible party for this situation is largely the state of Montana, through existing law. If an accident were to occur (no proper signing, no speed restrictions, etc.) on the road section in question, it might place the state in a delicate position.

In addition to educating users about resource protection and trail ethics, OHV groups are working hard to obtain user compliance with all applicable laws and regulations. At present, it is impossible to comply with state law because of our inability to legally access riding areas. Passage of this bill would allow us to demand compliance under all circumstances.

EXHIBIT 6
DATE 3-26-93
HB 679

HB 679
March 26, 1993

Testimony presented by Arnold Olsen, Dept. of Fish, Wildlife & Parks before the House Highways and Transportation Committee

The Department of Fish, Wildlife and Parks, by statute, has the responsibility for coordinating Off-Highway Vehicle (OHV) trail development and safety education programs. We work closely with state, federal and private land managers and with OHV clubs to provide OHV trail riding opportunities and to provide riders with safety-related information as well as legal and ethical responsibilities.

We support this bill on the basis that it will expand the riding opportunities for OHV users and provide funding for a statewide OHV rider training course.

This bill allows registered OHV travel on portions of Forest Service and BLM roads in order to get from one trail head to another. The conditions of the bill help to provide for a safe corridor of travel.

This bill also allows OHV users to lawfully cross public roads to get from one riding area to another and it establishes an OHV rider's assumption of responsibility. These sections are modeled after current snowmobile laws which have proven effective.

Due to limited funds, OHV rider education and training has, to this point, been very limited. This bill authorizes funding for a more comprehensive statewide OHV rider training program. Additional dollars would allow the department to teach OHV users, especially youth, safe and responsible riding practices through hands-on training and/or classroom instruction. The program would include ATV and motorcycle safety, ethics, and trail etiquette.

Funding that may be available is uncertain. Depending on funding, the department may need either an FTE or a contractor to coordinate training efforts and site maintenance.

EXHIBIT 7
DATE 3-26-93
HB 679

STATEMENT OF
DAVID F. JOLLY, REGIONAL FORESTER
FOREST SERVICE, NORTHERN REGION
UNITED STATES DEPARTMENT OF AGRICULTURE
Before the
Highways and Transportation Committee
Montana State House of Representatives

Concerning House Bill No. 679 entitled "AN ACT REVISING THE LAW RELATING TO OFF-HIGHWAY VEHICLE USE: ALLOWING OFF-HIGHWAY VEHICLE USE ON CERTAIN FOREST AND BUREAU OF LAND MANAGEMENT ROADS; ALLOWING OFF-HIGHWAY VEHICLES TO CROSS PUBLIC ROADS UNDER CERTAIN CONDITIONS; ESTABLISHING A STANDARD OF RESPONSIBILITY FOR OFF-HIGHWAY VEHICLE OPERATORS; PROVIDING FOR OFF-HIGHWAY VEHICLE SAFETY TRAINING AFTER 1994; APPROPRIATE FEDERAL FUNDS FOR OFF-HIGHWAY VEHICLE SAFETY TRAINING; AMMENDIMG SECTIONS 17-7-502 AND 61-2-111, MCA."

March 26, 1993

CHAIRMAN CLARK AND COMMITTEE MEMBERS:

For the record, my name is Ernie Nunn, Supervisor of the Helena National Forest. I am speaking on behalf of Northern Regional Forester, David Jolly. Thank you for the opportunity to participate in this hearing and to share the USDA Forest Service position on House Bill 679.

The Forest Service opposes House Bill No. 679. We support current Montana State law as written and feel that HB 679 does not provide any desired additional authority or flexibility in the management of Off Highway Vehicle (OHV) use by the Forest Service.

As we interpret the language in section 1 of this bill, it would amend Section 61-8-111, MCA, to permit off-highway vehicle use on Forest Development roads (FDRs) when certain conditions are met. This use would be permitted at the discretion of the Forest Service. The Forest Service already has the authority and flexibility to manage traffic on Forest Development Roads under the Code of Federal Regulations; therefore, the bill is not further enabling in this regard. Additionally, it would appear that the bill could be interpreted to affect cooperative law enforcement efforts on exempted Forest Development roads. Given the sound cooperation in law enforcement with the State under current legislation, we would sincerely hope that nothing weaken this relationship.

The bill also allows for mixed vehicle traffic (street legal/non-street legal) at the same time on Forest Development roads, as well as unlicensed, minor operators. In other words, a minor, non-licensed operator on a 3-wheeler could be sharing the road with a logging truck. Northern Region Forest Service policy does not allow the mixing of street legal and non-street legal vehicles on forest development roads at the same time. The mixing of traffic types and operators on these roads is not permitted because of safety concerns and the risks and liability associated with such use. Therefore, while enactment of HB 679 would allow the mixing of traffic on Forest roads, this mixed use conflicts with Northern Region Forest Service policy and would be prohibited by the Forest Service.

Section 2 of the bill pertains to the Bureau of Land Management. We defer to them on this section.

Section 3 of the bill allows OHV crossing of public roads in certain circumstances. Again, this is a critical safety issue. This is particularly true in situations where OHVs cross public roads in high traffic areas. We believe the safety and liability issue cannot be ignored and outweigh perceived benefits.

Section 4 discusses OHV operator responsibilities and liability. We feel this section does not address mixed traffic safety concerns, nor is there mention of operator responsibility to prevent resource

damage. Further, we would suggest that the liability language contained in this bill reflect or strengthen the State of Montana's current liability laws.

The Forest Service supports educational training programs for off-highway vehicle use. We sponsor the "Tread Lightly" program which focuses on environmentally conscious, responsible use of OHVs on public lands. The concept of educational training is one which we strongly support. Since this portion of bill redefines management of, rather than creation of, OHV safety educational training, we defer to Montana State's Departments of Justice and Fish, Wildlife, and Parks on these sections.

The Forest Service believes that the use of OHVs is an appropriate recreational use of the National Forests. Street legal OHVs are not prohibited from any non-restricted FDRs. This translates into over 27,000 miles of Forest Development roads which are available for their use in the Northern Region...this is over 56% of the Northern Region's total road system. In addition, many miles of Forest trails currently provide opportunities for both street legal and non-street legal OHV use.

While the Forest Service does not support this bill, there are opportunities for identifying additional Forest Development roads for use by OHVs. We welcome the opportunity to work with user groups and sponsors to this legislation to facilitate a case-by-case review of roads which might be suitable for OHV use on the National Forests in Montana. We have recently participated in meetings with these groups and sponsors and will continue to do so in the future.

Again, we appreciate the opportunity to share the Forest Service's position on this bill. This completes my testimony. I will be pleased to answer any questions you may have.

EXHIBIT 8
DATE 3-26-93
HB 679

Amendments to House Bill No. 679
First Reading Copy (WHITE)

Requested by Representative Clark
For the Committee on Highways

Prepared by Valencia Lane
March 22, 1993

1. Page 1, line 21.
Following: "state"
Insert: "that qualify as maintenance level 3 or greater in the United States forest service handbook"

2. Page 2, line 13.
Following: "unlicensed"
Insert: "minor"

3. Page 2, line 15.
Following: "Each"
Insert: "minor"

4. Page 2, line 18.
Following: "roads --"
Insert: "enforcement --"

5. Page 2, line 18.
Following: "exceptions."
Insert: "(1) Except as provided in subsection (2), U.S. bureau of land management roads in the state that qualify as collector roads in the U.S. bureau of land management manual, whether or not they meet the definition of a public highway by the laws of this state, are subject to the traffic laws of this state, and the Montana highway patrol and county sheriffs of this state have jurisdiction to investigate accidents and enforce the Montana traffic laws on those roads."
Renumber: subsequent subsections

6. Page 2, lines 24 and 25.
Following: "by the" on line 24
Strike: remainder of line 24 through "supervisor" on line 25
Insert: "authorized officer"

7. Page 3, line 6.
Following: "unlicensed"
Insert: "minor"

8. Page 3, line 8.
Following: "Each"
Insert: "minor"

9. Page 3, line 11.
Following: "roads."
Insert: "(1)"

Strike: "An"
Insert: "Except as provided in subsection (2), an"

10. Page 3, line 20.
Following: line 19
Insert: "(2) An off-highway vehicle may not be operated on or across a highway that is part of the federal-aid interstate system."

EXHIBIT Y
DATE 3-26-93
HB 679

Amendments to House Bill No. 679
First Reading Copy (WHITE)

Requested by Representative Clark
For the Committee on Highways

Prepared by Valencia Lane
March 22, 1993

1. Page 1, line 21.
Following: "state"
Insert: "that qualify as maintenance level 3 or greater in the United States forest service handbook"

2. Page 2, lines 13 and 14.
Strike: lines 13 and 14 in their entirety
Renumber: subsequent subsection

3. Page 2, line 18.
Following: "roads --"
Insert: "enforcement --"

4. Page 2, line 18.
Following: "exceptions."
Insert: "(1) Except as provided in subsection (2), U.S. bureau of land management roads in the state that qualify as collector roads in the U.S. bureau of land management manual, whether or not they meet the definition of a public highway by the laws of this state, are subject to the traffic laws of this state, and the Montana highway patrol and county sheriffs of this state have jurisdiction to investigate accidents and enforce the Montana traffic laws on those roads."
Renumber: subsequent subsections

5. Page 2, lines 24 and 25.
Following: "by the" on line 24
Strike: remainder of line 24 through "supervisor" on line 25
Insert: "authorized officer"

6. Page 3, lines 6 and 7.
Strike: lines 6 and 7 in their entirety

7. Page 3, line 11.
Following: "roads."
Insert: "(1)"
Strike: "An"
Insert: "Except as provided in subsection (2), an"

8. Page 3, line 20.
Following: line 19
Insert: "(2) An off-highway vehicle may not be operated on or across a highway that is part of the federal-aid interstate system."

9. Page 3, line 21.
Following: **"responsibilities"**
Insert: " -- unlicensed operators"

10. Page 4.
Following: line 23
Insert: "(5) An unlicensed operator who has successfully completed the off-highway vehicle safety education training program offered by the department of fish, wildlife, and parks may operate an off-highway vehicle on a maintenance level 3 or greater forest service road under the direct supervision of a licensed adult."

EXHIBIT 14
DATE 3-26-93
HB 679

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 3-26-93 BILL NO. HB679 NUMBER 10 TO 5

MOTION: Do Pass as Amended

NAME	AYE	NO
REP. WINSLOW, KARYL		✓
REP. WHALEN, TIM		✓
REP. ANDERSON, SHIELL	✓	
REP. VOGEL, RANDY	✓	
REP. BARNETT, JOE	✓	
REP. TASH, BILL		✓
REP. ENDY, BILL	✓	
REP. STANFORD, WAYNE	✓	
REP. EWER, DAVID		✓
REP. RYAN, BILL	✓	
REP. GALVIN, PAT	✓	
REP. MASON, GARY	—	—
REP. HANSON, MARIAN	✓	
REP. KELLER, VERN		✓
REP. LARSON, DON	✓	
REP. CLARK, BOB, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Trans. COMMITTEE BILL NO. HB679

DATE 3-26-93 SPONSOR(S) Rep. Clark & Sen. Harding SB417

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Doug ABELIN	MTVRA CAPITAL TRAIL VEHICLE ASSOC.	HB-679	
Pat Riley	MTVRA CMVA	HB679	
Pat McKinley	ARTS of MONT	HB679	
Darrell L. McCarvel	Bureau of Land Management	HB679	
Thomas B. Dyer	Bureau of Land Management	HB679	
Linda Ellison	MTVRA	HB679	
Joyce Lee (Joyce Lee)	MTVRA - snowmobilers who like to recreate 4 kids	HB679	
Dan Smith	AMA	HB679	
Ernie Nunn	Forest Service		HB679
[illegible]	MDFWP	HB679	
Bob Walker	FWP	HB679	
Dennis Sheehy	Forest Service		HB679
Margie Pittman	Helena Nat'l Forest		✓
Ed Lettman	FWP	HB679	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transportation COMMITTEE BILL NO. HB679

DATE 3-26-93 SPONSOR(S) HB 679 (Con Rinaver √)

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Albert Goke	Agri. Safety Div.	HB679	
Karen Alexander	MT Bt Marketers	HB417	
Bill Salisbury	MDT	HB417	
Janet Ellis	MT Audubon Leg Fund	HB679	Amend
John Gatchell	MT Wilderness Assoc.	HB679	Amend

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MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on April 6, 1993, at 3:11 p.m.

ROLL CALL

Members Present:
Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)

Members Excused: Sen. Harp

Members Absent: None.

Staff Present: Tom Gomez, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 483, HB 679
Executive Action: HB 483, HB 679

HEARING ON HOUSE BILL 483

Opening Statement by Sponsor:
Rep. Toole, House District 60, stated law enforcement has placed a high priority on the concept embodied in HB 483, which evolved as a result of a cooperative effort between local law enforcement and the crime lab in Missoula. He explained HB 483 would allow law enforcement officials to request that a driver submit to a drug test when that driver has less than a .10 blood alcohol count (BAC) but there is cause to suspect that person is under the influence of drugs. Since people with blood alcohol levels over .10 are already in violation of Montana's driving under the influence (DUI) statute, **Rep. Toole** said HB 483 would authorize this additional test be administrated to only those people who evidence a legal BAC when drug-use is suspected. He said this

less than a .10 BAC, the officer might want to see if that evidence would convince a judge to allow a search of the car.

Closing by Sponsor:
Rep. Toole reiterated that initially he had the same reservations about expanding mandatory testing in this area as expressed by members of the Committee. He stated there are people who operate vehicles in Montana under the influence of drugs, not because drugs other than alcohol are their particular choice, but because it is much more difficult for an officer to obtain a conviction for DUI. He said HB 483 presents a limited avenue to solving that problem.

HEARING ON HOUSE BILL 679

Opening Statement by Sponsor:
Rep. Clark, House District 31, explained HB 679 has two purposes, one of which is changing some of the rules regarding the operation of motor vehicles especially on Forest Service (FS) and Bureau of Land Management (BLM) lands. He stated HB 679's other purpose would provide a way to recover some of the federal highway funds Montana will lose as a result of the death of SB 365, the mandatory motorcycle helmet law. He said a substantial portion of that money will be recovered through the federal highway safety program which **Al Goke** administers. **Rep. Clark** said **Mr. Goke** was present to answer any questions the Committee might have about the money but did not intend to testify on HB 679.

Proponents' Testimony:
Doug Abelin, Capitol Trail Vehicle Riders Association (CTVRA) and Montana Trail Vehicle Riders Association (MTVRA), distributed a packet containing the documents his group had used in developing HB 679 and the concept embodied in the bill (Exhibit #1). He said HB 679 had evolved during the course of this legislative session, and mentioned he had presented the ideas incorporated into HB 679 to the Committee on February 20, 1993. He admitted HB 679 still needs some work but would ultimately be beneficial for both the users and the agencies involved. He stated his organization had spent a lot of time developing an agenda, had made a sincere effort to discuss the pertinent issues with the involved agencies, and had received much support from committees and members of the legislature. According to **Doug Abelin**, HB 679 would identify certain levels of forest road for off-highway vehicle (OHV) operation, would address OHV crossing of roadways in the safest possible manner, and would establish liability language making users responsible for their own actions in almost all cases. He stated HB 679 would create the groundwork for a "tremendous safety program" for OHV operators in Montana. He said Fish, Wildlife & Parks (FWP) would administer this program which would teach safety, riding courtesy to all users, environmental awareness and mitigation, and the use of all safety gear.

Dal Smilie, Chairman Montana Motorcycle Safety Advisory Committee, Vice Chairman, American Motorcycle Association, spoke from prepared testimony in support of HB 679 (Exhibit #2).

Pat Foley, Capitol Trail Vehicle Riders Association and Montana Trail Vehicle Riders Association, said he was responsible for helping to draft the language in section one of HB 679 and would confine his remarks to that section. According to **Pat Foley,** state law applies to forest development roads and needs to be changed; currently Montana statute mandates that "all existing traffic laws shall apply to all forest development roads in Montana". He explained that forest development roads are differentiated into five levels (Exhibit #1, pages 5 and 6). He said the lowest level is not maintained and is generally open to non-motorized vehicles. He said level two roads are comparable to level one roads but are maintained to a small extent. **Pat Foley** stated OHV users want to be able to ride level two roads without having to ride illegally in order to access these roads. He asserted illegal operation has always occurred and the FS ignores it in most cases. He explained that HB 679 would clarify the difference between statute and actual application.

Pat Foley emphasized that HB 679 is designed to address and foster family recreation. Although level three roads are open to street legal vehicles, **Pat Foley** explained that most OHVs are designed to operate properly on a trail network and are not street legal but need to use level three roads in order to access that trail network. He stated families cannot legally ride with their children to get from trailhead to trailhead. He stressed that safety was the primary issue motivating HB 679; since the FS does not acknowledge the fact that level three roads are being used for access purposes, there is neither proper signage nor speed restrictions which would introduce an element of safety into a currently hazardous situation. **Pat Foley** said the provisions in section one of HB 679 would enable OHV operators to use level three roads and higher only as a means to access level two roads. He added HB 679 would not establish a mandate for this use under all circumstances since only the forest supervisor has the authority to make the final decision. He emphasized that proper signage is necessary in those areas which are used for access. According to **Pat Foley,** proper signage would inform all users that a particular section is a plural-use road and would allow for the ability to restrict speeds where necessary.

Pat Foley informed the Committee that the user requirements listed in section one of HB 679 represent minimum standards. He said if the FS wanted to impose more restrictions, his group would not disagree. He stated the stipulation which would require unlicensed OHV users to complete the safety course included in HB 679 before they could ride on those sections of plural use road is very important. He said this requirement would also reinforce the strength of the safety program, which probably would not be successful unless it is made mandatory. **Pat Foley** emphasized HB 679 would not open any areas currently

closed to OHV use, only provide legal access to those trails OHVs can currently use. He stated the policy outlined in HB 679 is supported by national FS policy. In support of his assertion, **Pat Foley** cited a 1987 document entitled "Off-Road-Vehicle And Travel Management Activity Review", which was prepared and approved by the National Directors of Recreation and Engineering and the Deputy Chief of the FS (Exhibit #1, pages 10-12). He stated the report recommends that the FS recognize OHV use of forest development roads (FDRs) and "define the circumstances under which the use of unlicensed vehicles and drivers might be appropriated and how that use should be accommodated". He stated the report contains the recommendation that the FS provide for OHV use "in a manner consistent with state OHV laws". **Pat Foley** stated HB 679 would allow OHV users to begin a dialogue with the FS about their current inconsistent and unsafe policy on OHV use of level three roads. He then introduced **Liz Lodman, FWP**, who will be the administrator of the safety program should it become law.

Arnold Olsen, FWP, read from prepared testimony (Exhibit #3).

Linda Ellison, Land Use Coordinator, Montana Trail Vehicle Riders Association (MTVRA), said MTVRA has been working for the last several years to "get a handle on OHV management use" with the goal of providing increased opportunities for OHV recreation. She stated that most of the group's previous legislation has been directed toward gathering the ability to address resource protection. She said safety is also an essential consideration which, under current FS policy, is occasionally and unnecessarily forgotten. **Linda Ellison** illustrated this by explaining that in several instances rangers, for very legitimate reasons of resource protection, have closed trails and routed OHV recreation over roads which are comparatively busy. She stated the only way to address this issue would be to take proactive steps to mitigate the hazards to all users. She mentioned some examples of signs which have been used in such situations (Exhibit #1, pages 21 and 22), and added that HB 679 would give MTVRA the ability to insist on proper signage and speed limits where applicable, two things which are needed to protect all users.

Linda Ellison stated, in the long term, the most viable mitigation is probably the OHV safety program. She said the safety program would familiarize younger children with Montana traffic laws and teach them safe operation techniques, ethics, and environmental concerns. She said children, teenagers and other users are currently riding on FS and BLM roads and added it is imperative to educate these users about such topics at a younger age. She concluded HB 679 would hopefully provide the means to do exactly that.

<u>Opponents' Testimony</u>:
Ernie Nunn, Forest Supervisor, Helena National Forest, FS, Northern Region, United States Department of Agriculture, introduced **Chris Risbrudt, Deputy Regional Forester; Earl**

Applecamp, FS Engineer, and **Denny Hart, Forest Ranger, Helena Ranger District.** He then spoke from prepared testimony (Exhibit #4).

Informational Testimony: None.

Questions From Committee Members and Responses:
SEN. SWYSGOOD asked how much money HB 679 would actually appropriate to the OHV safety program. **Doug Abelin** replied the maximum amount of money projected to be available for all safety uses was about $2.9 million. He stated the OHV safety program would receive only a portion of that money. **Doug Abelin** added since that sum is not fixed the fiscal note does not identify the exact dollar figure.

SEN. SWYSGOOD asked if HB 679 had been developed as a means to use the funds that will be diverted from Montana's highway construction fund into a safety fund October 1994 after the failure of the motorcycle helmet law. **Doug Abelin** said yes.

SEN. SWYSGOOD expressed his support of the OHV training program concept. He stated, however, HB 697 was going beyond safety issues and attempting to effect a statutorial change not directly connected to the funds that would be available for the OHV training program. He expressed his belief that neither the state nor OHV groups can tell the FS what to do. **Doug Abelin** responded that the intent of HB 679 is not to supersede federal law, but to correct state law so that agreements could be negotiated with the federal agencies. He added that OHV groups have a good relationship with the FS on the issue of trail maintenance. He explained FWP has money which is appropriated through OHV fees and some gas funds to address and do trail maintenance, mitigation, and other improvements.

SEN. SWYSGOOD asked why the provisions in HB 679 were not restricted to establishing the safety program. **Doug Abelin** stated his group had a number of concerns regarding FS land. He stated OHV users were originally allowed to use the roads addressed in HB 679, but the interpretation of the law had changed. According to **Doug Abelin**, this change has restricted and nearly eliminated the use of off-road unlicensed vehicles on "back forest roadways". He explained the original portion of HB 679 represented an attempt to clarify and reestablish the OHV users right to use the lower level roadways on FS land to access established OHV trails. He stated three states currently have working programs which address the problem of trailhead access through signage, reduced speed limits, and requiring non-licensed operators to be accompanied by licensed adult operators. **Doug Abelin** said these states, with FS cooperation, have largely resolved the safety concerns connected with OHV use of level three roads to access trails. He said HB 679 would allow the safety problems associated with OHV operation on plural-use roads to be addressed. He added that use is occurring even though it is illegal.

SEN. SWYSGOOD said he had no argument with anything **Doug Abelin** had said. He stated, however, he disapproved of one group circumventing the normal process of appealing FS policy as it relates to road usage by using a piece of legislation that supposedly addresses an entirely different situation. **SEN. SWYSGOOD** stated he did not think it was right for OHV users to interject their problems into HB 679, while the problems of other groups remain unaddressed. **Doug Abelin** stated HB 679 had not been altered to attack the FS; his group already had a bill addressing the issues contained in section one of HB 679. He assured the Committee that nothing had been added to that original bill except the safety program as the safety funds became available. He stated his group had tried to resolve their differences with the FS by going through the correct channels, but they had not succeeded.

SEN. SWYSGOOD stated he agreed with the safety aspect of HB 679, but was concerned about the bill's provisions regarding federal lands. He said the FS is a public land manager and has the authority to establish the rules and regulations on the lands it manages. He reminded the Committee that the Senate had suspended the rules for HB 679. He stated when he voted to suspended the rules, he had been under the impression the bill would address the use of those federal monies for safety programs. **Doug Abelin** stated the federal agencies would still have the ultimate authority to determine the use of land they manage, even if HB 679 were to become law. He said HB 679 would clarify state law so that the federal agencies would, in fact, be required to actively make the necessary determinations. **Doug Abelin** said the safety portion of HB 679 was a bonus that had come along during the process. He assured the Committee there had never been an intent to mislead, but simply to take advantage of that bonus.

SEN. TVEIT asked for a clarification of level three roads. **Ernie Nunn** explained that a level one road is nothing more than where there is a set of ruts or the ground has been stirred. He added level one roads are actually closed roads by regulation. He said a level two road is in better condition and may be a four-wheel drive road or used by all terrain vehicles (ATV) or bikers. He stated a level three road is a "maintenance level" road and often has funded maintenance program. He explained maintenance level roads are usually in better condition and used by many users of the public.

SEN. TVEIT asked if logging trucks and larger vehicles use level three roads. **Ernie Nunn** replied they do.

SEN. TVEIT asked if FS rules applying to maintenance level roads are usually consistent with state law. **Ernie Nunn** said yes. He added he hoped the good working relationship between state and federal law enforcement would not be jeopardized. He explained that currently an agreement exists between law enforcement which allows for efficient cooperation and exchange of assistance.

SEN. TVEIT stated that even though HB 679 stipulates in section four that "the unlicensed operator shall accept all legal responsibility", the FS would still be liable if they allowed OHV traffic on maintenance roads. Referring to Montana law, **SEN. TVEIT** stated the FS would be liable because they had permitted operation on plural-use roads which constitutes an unsafe condition. He asked about the FS stance on liability issues presented by HB 679, given the provisions of Montana law. **Ernie Nunn** replied **SEN. TVEIT's** comments were correct. He stated that the FS "owed it to the American people to provide a safe experience" on national forest lands and would not relieve itself of that responsibility. Given the amount of intermingled lands within the forest boundary, he noted that possible conflicts could arise if federal and state law differed. He explained there are a lot of mining claims, private and state lands within the forest boundary and most of the maintenance level roads were constructed to provide access to those lands. **Ernie Nunn** said the change in jurisdiction is rarely posted and a conflict between state and federal law would make it more difficult for the using public to determine what laws they needed to comply with on a certain stretch of road. He said the FS would need time to address those issues and resolve them for the users. He stressed the FS's main priority is the users.

SEN. TVEIT said HB 679 had a lot of good in it and added he thought most of his reservations with HB 679 could be resolved. He added, however, he did not believe the OHV safety training program would receive any federal money if the federal government were alienated by other portions of the bill. He stated the basic concern seemed to be the ability to use maintenance level roads to access OHV trails. **Ernie Nunn** replied **SEN. TVEIT** was correct, but that those and other issues could be resolved by working on a case by case basis. **Ernie Nunn** expressed the FS's unequivocal support of using federal dollars, if that money were available, for any program which would educate and train the youth of Montana to operate OHVs in a safe and environmentally sound manner. He stated the FS supported the safety training aspect of HB 679 and would provide "some leadership" for such a program.

SEN. TVEIT asked if **Ernie Nunn** testified on HB 679 when it was heard by the House Committee. **Ernie Nunn** replied he had testified before the House, because he believed the FS owed it to state legislators to inform them about the FS's position on issues. He stated his testimony at the House Hearing was about the same but had been changed to reflect the amendments the House Committee had added to HB 679.

SEN. MCCLERNAN expressed his surprise that the FS had opposed HB 679 primarily on the basis of safety problems. He stated he had expected opposition on the basis of a potential conflict arising from the state of Montana and the federal government administering the same thing. He asked if the FS had any concerns about HB 679 usurping some of the responsibilities of

the FS to administer public land. **Ernie Nunn** said perhaps an element of such concern exists. He added, however, the FS's working relationship with FWP is good; the two agencies have all kinds of agreements. Referring to the particular issue addressed by HB 679, **Ernie Nunn** said FWP would provide leadership for the OHV educational training program and the FS would most likely assume some leadership roles in helping to do some signing and other related things.

Chris Risbrudt, Deputy Regional Forester, stated the FS was concerned about any difference in federal and state regulations. He said the FS has entered into cooperative law enforcement agreements with Montana counties and those agreements would be removed under HB 679. He explained the FS currently pays counties to have their law enforcement agents to enforce state law on national forests.

SEN. MCCLERNAN commented that if the state is going to pick a fight with the federal government, he thought the issues ought to be more substantive than those contained in HB 679.

SEN. BRUSKI-MAUS asked **Bob Walker, Liz Lodman** and **Al Goke** if they wished to make any comments.

Liz Lodman, FWP introduced herself as the coordinator of the Department's OHV Safety and Education Training Program, and stated her concern regarded the safety training program HB 679 would establish. She said some safety training is available for adults, but there is no real safety education training for young riders. She stated HB 679 would provide an opportunity to reach the youth of Montana so they could grow up to be safe riders both off and on-road.

Bob Walker, Trails Coordinator, FWP said he had worked closely with the OHV community for several years and it has been a good relationship. He explained his job is to develop OHV trails, trail linkages and trail loops. He stated often the only access to some FS designated OHV trails was a level three maintenance roadway. He said many OHV users are forced into operating their vehicles illegally as a result. In just the last year, **Bob Walker** said he had been placed in that very position at least four times. He stated HB 679 would create a situation in which it is possible for the FWP to work more effectively with the FS to resolve access problems.

SEN. SWYSGOOD stated section one represents the actual intent of HB 679. He said the FS needs to address the issue of access to trailheads, but added, however, he did not believe that a piece of legislation could persuade or force the FS to change policy. He reminded the Committee that HB 679 was designed to appropriate funding made available to safety programs because of the failure of SB 365. He stated the end effect of HB 679 would probably be the same if all the language referring to the federal agencies

were stricken. He asked what HB 679's proponents hoped to accomplish with these two sections.

Bob Walker replied no room for discussion on this issue exists because the FS's usual response is simply that state law does not allow OHV use on maintenance level roads. He said HB 679 would adjust state law to allow for at least a dialogue on the issue, even though the FS would still make the final decision. He stated the FS may not open up many roadways to OHV use, but HB 679 would at least make that a possibility. **Bob Walker** also emphasized the connection between the safety program and the ability to use OHVs on level three roads; minors would be required to take the safety education class before they could operate on the particular roadways identified in HB 679. He said a voluntary program would currently attract only a small number of participants, but added if OHV users needed that safety training program to use designated FS roads to access trails the scope of the program would radically expand.

Closing by Sponsor:
Rep. Clark said HB 679 is not perfect and expressed the willingness of the bill's sponsors to work with any one concerned with any portion of the bill. He stated BLM supports HB 679 in its current form. He stressed that HB 679 would not suspend or mandate a change in federal policy but would alter state law so that negotiations could to go forward with the FS. In response to the argument an unsafe situation would be created by allowing unlicensed operators to ride OHVs on the same roads as logging trucks, **Rep. Clark** replied that particular unsafe situation is already a reality. He said HB 679 would require unlicensed operators to pass a safety training course, be under direct adult supervision, and follow other general safety rules adapted from the snowmobile statute. He said HB 679 would also encourage and hopefully cause minors to wear helmets.

Rep. Clark stated he did not think HB 679 would jeopardize the current cooperative agreements between state and county law enforcement agencies and the FS. He informed the Committee that **Colonel Griffith, Montana Highway Patrol,** had attended the House hearing on HB 679 with the express purpose of answering any questions about HB 679's potential consequences for those cooperative agreements. **Rep. Clark** stated that **Colonel Griffith** had not expressed any concerns about HB 679. **Rep. Clark** closed by saying the safety issue addressed by HB 679 is paramount. He said the safety education training program contained in HB 679 would institute would reach young OHV riders in Montana and help them develop safety habits applicable to both off and on-road motoring.

EXECUTIVE ACTION ON HOUSE BILL 483

Motion:
SEN. TVEIT moved HB 483 BE CONCURRED IN.

enforcement officers do not have the authority to check for drugs. **SEN. MCCLERNAN** stated that although he could sympathize with law enforcement's need to have authority to check for drugs, he would be inclined to give them only limited authority.

SEN. TVEIT said HB 483 would give law enforcement officers the option to check drivers for drug use even though they are stopping them for a DUI, not for drugs on any public road.

SEN. KOEHNKE asked what kind of authority law enforcement officers currently have to check for drug use. **SEN. SWYSGOOD** explained that the employees of commercial motor carriers can be checked randomly for drug use and the driver of a vehicle involved in an accident must submit to a drug test within 32 hours. He stated that non-commercial drivers are not subject to any of the commercial restrictions. **SEN. SWYSGOOD** stated a drug test attached to the Informed Consent Law would be guaranteed to be used quite often. He concluded it would provide law enforcement officers with another option to harass private citizens.

SEN. TVEIT stated the more he considered the subject matter and possible consequences of HB 483, the less he liked the bill. He then WITHDREW his motion that HB 483 BE CONCURRED IN.

Motion/Vote:
SEN. SWYSGOOD moved TO TABLE HB 483. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HOUSE BILL 679

Discussion:
SEN. TVEIT cited page six, lines 3-8 and said he could not support amending Montana statute to grant OHV users permission to operate on all level three maintenance roads. He said the FS could probably adopt rules limiting the use to certain stretches, but added it would be better if state law also reflected that limitation.

SEN. SWYSGOOD said language tying section four, subsection five to section one was necessary because HB 679, in its current form, provides that OHV users can operate on a level three maintenance road without any FS interjection. He stated section one provides that exceptions to the regulations are permitted only at the determination and discretion of the United States FS when the following conditions are met: that use is authorized by the forest supervisor, that stretch of road is properly signed, the OHV has a valid registration.

SEN. TVEIT stated he believed the language suggested by **SEN. SWYSGOOD** was very important. He said the regulations should

reflect that operation on level three maintenance roads would be solely for access to OHV designated trails. **SEN. TVEIT** stated it was necessary to maintain a very tight criteria so that OHV users could not "run up and down those level three roads".

SEN. BRUSKI-MAUS said the account mentioned on page six, line 19 of HB 679 should be a "federal special revenue fund" instead of a "state special revenue fund". **SEN. SWYSGOOD** said he believed a "state" fund was necessary to administer the program.

Tom Gomez mentioned there was a technical note in the fiscal note pertaining to a "federal special revenue fund".

Al Goke, Administrator, said he believed the account should be a "federal special revenue fund". He said the federal money would be put toward the "402 safety program" which for years has helped to fund efforts in the Highway Patrol, city and county law enforcement, emergency medical care, and start the driver's education program. The money, which would have gone into the highway construction fund if SB 365 had passed, would be transferred to the 402 safety program.

SEN. SWYSGOOD asked if FWP would need a "federal" or "state" special revenue fund in order to use the funds they would receive from the 402 program. **Al Goke** replied the recipient would get federal funds and advised that FWP would need a "federal special revenue account". He said the money might reach the program by way of a state agency, but the account would remain federal.

SEN. REA asked how many full time employees (FTE) FWP estimated it would need to implement the safety education training program. **Bob Walker** said FWP have developed two scenarios, one in which the Department would run the program and one in which a private contractor would run the program. He said either way, the program would require about 1 FTE.

Tom Gomez proposed language for the amendment that **SEN. SWYSGOOD** had suggested. He suggested that on page 6, line 8, at the end of the clause regarding the use of OHVs on maintenance level three roads the following language be added: "provided that the U.S. FS has provided an exception under MCA 61-8-111 to permit use of the road for OHVs".

SEN. SWYSGOOD said the exceptions would be that the supervisor would have to authorize that use, the road was properly signed, and OHVs had a valid registration, etc. He asked if "appropriate federal agency" should be the reference used since HB 679 also addressed BLM lands.

Because people who were interested in the bill reentered the room, **SEN. SWYSGOOD** explained what the Committee was doing. He said HB 679 in its current form would allow OHV users to operate on a level three maintenance roads. He explained the Committee was currently drafting an amendment which would require that the

federal agency would have to grant the exceptions in section one before the road could be used by OHV operators.

Dave Abelin said section four, subsection five was amended into HB 679 by the House Committee. He commented his organization had been surprised by the amendment.

SEN. SWYSGOOD asked **Rep. Clark** what intent the House Committee had when they so amended HB 679. **Rep. Clark** responded subsection five was added primarily because HB 679 had not previously stipulated that unlicensed motorists must complete the OHV safety education training course before being allowed to operate on level three maintenance roads. He stated the House Committee had not noticed the need to cross reference section four, subsection five with the exceptions in section one.

SEN. SWYSGOOD cited section one, page three, line six which reads "each vehicle operator shall comply with the requirements of MCA 61-9-417". He asked that the "requirements" of MCA 61-9-417 be clarified. **Doug Abelin** said that section of HB 679 refers to the mandatory helmet law for individuals ages 18 and under.

SEN. SWYSGOOD asked why page three, section four was stricken from the bill. **Rep. Clark** said nobody could define the term "responsible adult". He added that section was replaced by the language in section four, subsection five.

SEN. SWYSGOOD asked whether it would not be more appropriate to reinstate the language in that section and replace the reference "responsible adult" with "licensed operator". **Rep. Clark** said the House Committee's staff thought the issues in that section were addressed in section four, subsection five.

SEN. SWYSGOOD suggested streamlining HB 679 by striking section four, subsection five and putting the language back in its original place. Since the House Committee had objected to the term "responsible adult", **SEN. SWYSGOOD** suggested those references be changed to "licensed adult". He added that change would be consistent with the language in the rest of HB 679.

Rep. Clark said he would like to be sure HB 679 specified that unlicensed OHV users are not allowed to use maintenance level roads without completing the safety education training program. **SEN. SWYSGOOD** agreed with **Rep. Clark**, but added the safety program requirement would have to be cross referenced to section one. He stated he would feel uncomfortable if OHV operators were given unlimited use of level three maintenance roads.

Rep. Clark asked if **SEN. SWYSGOOD** would feel comfortable with just adding a reference to the safety education training program in place of the language that was struck on line four page three. He said doing so would effectively move subsection five to page three, line four.

SEN. SWYSGOOD agreed. He said the reference to the exceptions for OHV use of level three maintenance roads would be moved out of section four of HB 697 into section one and section two. Permission for OHV use would then come under the criteria that the federal agency granted the authority and the OHV operator complied with the exceptions to operate. **Rep. Clark** stated he would agree with that amendment.

Tom Gomez verified that **SEN. SWYSGOOD** was satisfied with the phrase "an unlicensed off-highway vehicle operator is accompanied by a licensed adult". **SEN. SWYSGOOD** stated that the language should be "an unlicensed operator who has successfully completed the off-highway vehicle safety education training program offered by the Department of FWP may operate an off-highway vehicle on a maintenance level 3 or greater FS road under the supervision of licensed adult". He emphasized this program would be only one of criteria that would have to be met if the FS granted permission for OHV use on level three maintenance roads.

Rep. Clark noted that the term used by BLM for "maintenance level roads" was "collector roads". He added that section two, line six ought to reflect that difference in language. **SEN. SWYSGOOD** suggested the Committee consider the amendments one at a time.

Motion:
SEN. SWYSGOOD moved to STRIKE PAGE SIX, LINES 3-8 IN ITS ENTIRETY AND TO REINSERT THE LANGUAGE THAT WOULD STRIKE FROM SECTION FOUR, SUBSECTION FIVE INTO SECTION ONE, LINE FOUR.

Discussion:
SEN. STANG asked **SEN. SWYSGOOD** to clarify the purpose of that amendment. **SEN. SWYSGOOD** stated the amendment would ensure that HB 679 contained language requiring unlicensed operators to complete the safety education training program before operating an OHV on plural-use roads.

SEN. STANG asked if the amendment stipulated where unlicensed operators could ride OHVs. **SEN. SWYSGOOD** said the amendment would stipulate use on roads level three or higher with the federal agency's permission. **SEN. TVEIT** explained HB 679 without the amendment would simply open all maintenance level roads to OHV use.

Vote:
The AMENDMENT CARRIED with **SEN. STANG** voting NO.

Discussion:
SEN. SWYSGOOD stated any bill that requires more than three amendments is a bad bill. **SEN. STANG** commented that **SEN. TOWE** would not agree.

SEN. SWYSGOOD attempted to formulate an amendment for section two which would incorporate BLM language instead of FS terminology.

He said the amendment would be inserted under section two, line six but was unsure of the exact language.

Doug Abelin suggested the amendment should read an "unlicensed operator who has successfully completed the off-highway vehicle safety education training program offered by the Department of FWP may operate an off-highway vehicle on a collector level BLM road at the discretion of the BLM authorized officer and under the supervision of licensed adult".

SEN. SWYSGOOD stated he was not sure since the amendment needed to be consistent with the other language relating to BLM in HB 679.

Tom Gomez said the amendment under discussion would also need to conform with the rest of HB 679 and probably should not be formulated as a statement.

Motion/Vote:
SEN. SWYSGOOD moved THE AMENDMENT UNDER DISCUSSION and asked **Tom Gomez** to draft the final language. The MOTION CARRIED WITH **SEN. STANG** voting NO.

Motion/Vote:
SEN. TVEIT moved an AMENDMENT TO STRIKE THE WORD "STATE" ON PAGE 6, LINE 19 AND INSERT THE WORD "FEDERAL" IN ITS PLACE. The MOTION CARRIED with **SEN. STANG** voting NO.

Discussion:
SEN. STANG asked who would teach the safety education training program and what distance unlicensed motorists would need to travel to participate. **Bob Walker** stated the proposal Fish, Wildlife & Game had developed contained various options depending upon the amount of federal money that became available. He said there would be anywhere between four to twelve permanent training sites around the state. He noted that 4-H is offering OHV safety training and the All-Terrain Vehicle Safety Institute (ASI) also has some certified instructors in Montana. He said if HB 679 passed and the program received the appropriate amount of money from the Federal Highway Administration, his Department intends to establish at least twelve permanent sites and as many local sites as possible. He admitted some people would need to travel to attend a safety education training program.

SEN. STANG asked how much federal money would be appropriated to the program, enough for closer to four or to twelve sites. **Rep. Clark** explained the money would be part of those funds diverted from the highway construction fund into the traffic safety education program. He stated that money would then be distributed to FWP to administer the program and set up the training. He stated the actual amount of money would not be known until October, 1994.

SEN. REA asked what would happen if a helmet law were approved during the next legislative session and no extra funds were made available for the OHV safety education training program. He asked if the state program would be coordinated with another group like 4-H, so that a safety education training program would still be available for unlicensed OHV operators. **Rep. Clark** expressed his doubt that a Montana State Legislature would ever approve a motorcycle helmet law. He said out of the 15 states which have discussed the options posed by the 1991 Federal Intermodal Surface Transportation Efficiency Act (ISTEA), only one had adopted a motorcycle helmet law as a result.

SEN. STANG asked why successful completion of the safety program was mandatory, since the extra safety money might never become a reality. He expressed his concern that unlicensed OHV users might never have a reasonable opportunity to take the safety program and would be breaking the law as a result. **Rep. Clark** stated they are breaking the law now.

Motion:
SEN. TVEIT moved HB 679 BE CONCURRED IN AS AMENDED

Motion:
SEN. STANG made a SUBSTITUTE MOTION TO AMEND HB 679 AS NECESSARY TO REMOVE THE REQUIREMENT THAT UNLICENSED OHV USERS SUCCESSFULLY COMPLETE THE OFF-HIGHWAY VEHICLE SAFETY EDUCATION TRAINING PROGRAM.

Discussion:
SEN. TVEIT stated if the program were removed from HB 679, Montana could not qualify for any federal safety money and HB 679 bill might as well be tabled. **Rep. Clark** suggested the safety program requirement could be made contingent upon the receipt of federal funding for the program.

Motion:
SEN. STANG AMENDED HIS AMENDMENT TO MAKE THE OFF-HIGHWAY VEHICLE SAFETY EDUCATION PROGRAM REQUIREMENT CONTINGENT UPON RECEIPT OF THE FEDERAL FUNDS.

Discussion:
SEN. TVEIT asked that a representative of FWP comment on **SEN. STANG's** amendment.

Bob Walker said the federal money would enable FWP to develop "the best OHV safety training program in the United States". He stated a safety training program does exist, but not with the desired scope. He explained the program currently relies on private land and the federal money would allow FWP to establish permanent training sites. He assured the Committee that even if the program is mandated without the federal dollars, FWP would "work real hard to get the existing program expanded".

SEN. STANG commented that expanding the existing program without federal funding would require an increase in OHV user fees. He stated legislation has already increased personal income tax and boosted various fees by about $25 million. He concluded he would rather make the safety education training program requirement contingent upon the receipt of federal money.

Vote:
The AMENDMENT CARRIED UNANIMOUSLY.

Motion/Vote:
SEN. STANG moved HB 679 BE CONCURRED IN AS AMENDED. The MOTION CARRIED WITH A ROLL CALL VOTE. With **SENATORS WEEDING, MCCLERNAN** and **HARP** were excused and allowed to cast their votes at a later date.

ADJOURNMENT

Adjournment: 5:55 p.m.

SENATOR CECIL WEEDING, Chair

BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORT. DATE April 6, 1993

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CECIL WEEDING, CHAIR	X		
SENATOR BETTY BRUSKI-MAUS, V-CHAIR	X		
SENATOR DARYL TOELJS	X - late		~~X~~
SENATOR JOHN HARP			X
SENATOR FRANCIS KOEHNKE	X		
SENATOR JACK "DOC" RIEA	X		
SENATOR LARRY TUELT	X		
SENATOR CHARLES SYLVSGOOD	X		
SENATOR BARRY "SPOOK" STANG	X		
SENATOR HENRY McCUERNAN	X		

F08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

April 7, 1993

MR. PRESIDENT:
We, your committee on Highways and Transportation having had under consideration House Bill No. 679 (third reading copy -- blue), respectfully report that House Bill No. 679 be amended as follows and as so amended be concurred in.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

That such amendments read:

1. Page 3, line 6.
Following: line 5
Insert: "(e) An unlicensed operator has successfully completed the off-highway vehicle safety education training program offered by the department of fish, wildlife, and parks and operates the off-highway vehicle under the direct supervision of a licensed adult."
Renumber: subsequent subsection

2. Page 4, line 8.
Following: line 7
Insert: "(e) An unlicensed operator has successfully completed the off-highway vehicle safety education training program offered by the department of fish, wildlife, and parks and operates the off-highway vehicle under the direct supervision of a licensed adult."

3. Page 6, lines 3 through 8.
Strike: subsection (5) in its entirety

4. Page 6, line 19.
Strike: "state"
Insert: "federal"

5. Page 6.
Following: line 25
Insert: "(4) Authorization for the training program provided in subsection (1) is contingent upon the receipt of federal funding for the program."

-END-

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

781559SC.San

ROLL CALL VOTE

SENATE COMMITTEE Highways & Transportation BILL NO. HB 679

DATE April 6, 1993 TIME 5:50 A.M. (P.M.)

NAME	YES	NO
SENATOR HENRY McCLERNAN		
SENATOR BARRY "SPOOK" STANG	X	
SENATOR CHARLES SWYSGOOD	[redacted]	X
SENATOR LARRY TVEIT	X	
SENATOR JACK "DOC" REA	X	
SENATOR FRANCIS KOEHNKE	X	
SENATOR JOHN HARP		
SENATOR DARRYL TOELJS		X
SENATOR BETTY BRUSKI-MAUS, VICE-CHAIR	X	
SENATOR CECIL WEEDING, CHAIR		

Beth Satre
SECRETARY

Sen Bruski-Maus
CHAIR

MOTION: HB 697 - Be Concurred in as amended.

Eng

The original of Exhibit 1 is 24 pages long and is located at the Historical Society, 225 North Roberts Street, Helena, MT, 59620-1201. The phone number is 444-2694.

SENATE HIGHWAYS
EXHIBIT NO. 2
DATE April 6 1993
BILL NO. HB 679

April 6, 1993

TO: Senate Transportation Committee
FROM: Dal Smilie, Chairman Montana Motorcycle Safety advisory Committee
AMA Vice Chairman
RE: Testimony in Support of HB 679

Industry figures estimate that there are 22,400 off highway motorcycles in Montana. This does not count the 7,500 or so dual purpose motorcycles or tourist motorcycles.

These users enjoy the trails in Montana and contribute to the Montana economy. Their contribution is very similar to the contribution made by snowmobilers.

This bill provides for a much needed federally funded OHV safety program.

This bill sets out responsibility code like that in place for ski areas. This will protect both public land managers and private land owners who allow OHV use on their trails.

Montana motorcyclists have drafted and supported legislation to help upgrade and build trails with their user fees. Other funds are just becoming available from state and federal off road gas taxes. There should be increased interest in the use of the trail systems.

Off road users enjoy "loop" trails and trail heads that have a campground immediately available. Where those conditions do not exist short stretches of road connect the "loop" or lead from the campground.

HB 679 allows user groups and public land managers to plan the use of certain roads to create loops or access to adequate parking and camping. This act does not force any change in use but allows it if and only if public land managers approve.

Trail users have sought to implement similar plans but were told by federal land managers that state law was the problem. This bill would change state law so that such planning could be agreed to. It places no responsibility on federal land managers to agree, it just allows them the option.

The USFS has reviewed this proposal for two months. On March 24 they indicated they would oppose it because it is a REGIONAL POLICY to not allow more than one type of user on "two track" roads. Currently licensed autos, motorcycles, quadricycles, log trucks, horses, bicycles, hikers and skiers can use the same "two track" roads. Is the USFS going to segregate those users? Of course not.

The USFS has "de facto" allowed OHVs on these roads. They allow it in other states. HB 679 will merely make that lawful.

SENATE HIGHWAYS
EXHIBIT NO. 3
DATE April 6, 1993
BILL NO. HB 679

HB 679
April 6, 1993

Testimony presented by Arnold Olsen, Dept. of Fish, Wildlife & Parks before the Senate Highways and Transportation Committee

The Department of Fish, Wildlife and Parks, by statute, has the responsibility for coordinating Off-Highway Vehicle (OHV) trail development and safety education programs. We work closely with state, federal and private land managers and with OHV clubs to provide OHV trail riding opportunities and to provide riders with safety-related information as well as legal and ethical responsibilities.

We support this bill primarily on the basis that it will provide for establishment of a statewide OHV safety and ethics training program which could save lives, reduce conflicts and improve user behavior.

This bill allows OHV users to lawfully cross public, USFS and BLM roads to get from one riding area to another and it establishes an OHV rider's assumption of responsibility. These sections are modeled after current snowmobile laws which have proven effective. The conditions of the bill help to provide for a safe corridor of travel.

Due to limited funds, OHV rider education and training has, to this point, been very limited. This bill authorizes funding for a more

comprehensive statewide OHV rider training program. Additional dollars would allow the department to teach OHV users, especially youth, safe and responsible riding practices through hands-on training and/or classroom instruction. The program would include ATV and motorcycle safety, ethics, and trail etiquette.

We therefore support HB 679.

SENATE HIGHWAYS
EXHIBIT NO. 4
DATE April 6, 1993
BILL NO. HB 679

STATEMENT OF
ERNIE NUNN, FOREST SUPERVISOR, HELENA NATIONAL FOREST
FOREST SERVICE, NORTHERN REGION
UNITED STATES DEPARTMENT OF AGRICULTURE
Before the
Highways and Transportation Committee
Montana State Senate

Concerning House Bill No. 679 entitled "AN ACT REVISING THE LAW RELATING TO OFF-HIGHWAY VEHICLE USE: ALLOWING OFF-HIGHWAY VEHICLE USE ON CERTAIN FOREST AND BUREAU OF LAND MANAGEMENT ROADS; ALLOWING OFF-HIGHWAY VEHICLES TO CROSS PUBLIC ROADS UNDER CERTAIN CONDITIONS; ESTABLISHING A STANDARD OF RESPONSIBILITY FOR OFF-HIGHWAY VEHICLE OPERATORS; PROVIDING FOR OFF-HIGHWAY VEHICLE SAFETY TRAINING AFTER 1994; APPROPRIATE FEDERAL FUNDS FOR OFF-HIGHWAY VEHICLE SAFETY TRAINING; AMMENDIMG SECTIONS 17-7-502 AND 61-2-111, MCA."

April 6, 1993

CHAIRMAN WEEDING AND COMMITTEE MEMBERS:

My name is Ernie Nunn, and I am the Forest Supervisor of the Helena National Forest. Thank you for the opportunity to participate in this hearing and to share the USDA Forest Service position on House Bill 679.

The Forest Service opposes House Bill No. 679. We support current Montana State law as written and feel that HB 679 does not provide any desired additional authority or flexibility in the management of Off Highway Vehicle (OHV) use for the Forest Service.

As we interpret the language in section 1 of this bill, it would amend Section 61-8-111, MCA, to permit off-highway vehicle use on Forest Development roads (FDRs) when certain conditions are met. This use would be permitted at the discretion of the Forest Service. The Forest Service already has the authority and flexibility to manage traffic on Forest Development Roads under the Code of Federal Regulations; therefore, the bill is not further enabling in this regard. Additionally, it would appear that the bill could be interpreted to affect cooperative law enforcement efforts on exempted Forest Development roads. Given the sound cooperation in law enforcement with the State under current legislation, we would sincerely hope that nothing weaken this relationship.

The bill also allows for mixed vehicle traffic (street legal/non-street legal) at the same time on Forest Development roads, as well as unlicensed, minor operators. In other words, an eight-year-old, non-licensed operator on a 3-wheeler or trail bike could be sharing the road with a logging truck. We will not support legislation that places the American public, in particular unskilled children as operators, at risk of serious injury or death. Northern Region Forest Service policy does not allow the mixing of street legal and non-street legal vehicles on forest development roads at the same time. The mixing of traffic types and operators on these roads is not permitted because of safety concerns and the risks and liability associated with such use. If you take a look at this bill from a safety and liability standpoint alone, as we have done, the mixing of licensed and unlicensed operators and vehicles on any unrestricted road system, i.e. Forest Service, State, County, is cause for major concern. Therefore, while enactment of HB 679 would allow the mixing of traffic on Forest roads, this mixed use conflicts with Northern Region Forest Service policy and would be prohibited by the Forest Service.

Section 2 of the bill pertains to the Bureau of Land Management. We defer to them on this section.

Section 3 of the bill allows OHV crossing of public roads in certain circumstances. Again, this is a critical safety issue. This is particularly true in situations where OHVs cross public roads in high traffic areas. We believe the safety and liability issue cannot be ignored and outweigh perceived benefits.

Section 4 discusses OHV operator responsibilities and liability. We feel this section does not adequately address mixed traffic safety concerns, nor is there mention of operator responsibility to prevent resource damage. We would suggest that the liability language contained in this bill reflect or strengthen the State of Montana's current liability laws. While this section does include reference to an unlicensed operator operating "under the direct supervision of a licensed adult", direct supervision is not well defined, nor does it alleviate the mixed traffic concerns of safety and liability. The situation of an unlicensed minor sharing the road with a log truck is still a very real possibility.

The Forest Service supports educational training programs for off-highway vehicle use. We sponsor the "Tread Lightly" program which focuses on environmentally conscious, responsible use of OHVs on public lands. The concept of educational training is one which we strongly support. Since this portion of the bill redefines management of, rather than creation of, OHV safety educational training, we defer to Montana State's Departments of Justice and Fish, Wildlife, and Parks on these sections.

The Forest Service believes that the use of OHVs is an appropriate recreational use of the National Forests. Street legal OHVs are not prohibited from any non-restricted FDRs. This translates into over 27,000 miles of Forest Development roads which are available for their use in the Northern Region...this is over 56% of the Northern Region's total road system. In addition, many miles of Forest trails currently provide opportunities for both street legal and non-street legal OHV use.

While the Forest Service does not support this bill, there are opportunities for identifying additional Forest Development roads which could be restricted solely for use by OHVs. The Forest Service presently has the authority to designate roads as restricted for OHV use. This has been done for snowmobiles on all forests in the Region. We have also established some summer routes for other OHVs throughout the Region. Further, the Region is taking a more proactive stance in educating our line officers about the appropriate use of this authority. This should assist in identifying additional options for OHV use. We welcome the opportunity to work with user groups and sponsors to this legislation to facilitate a case-by-case review of roads which might be suitable for use by OHVs on the National Forests in Montana. We have recently participated in meetings with these groups and sponsors of this legislation and we will continue to do so in the future.

Again, we appreciate the opportunity to share the Forest Service's position on this bill. This completes my testimony. I will be pleased to answer any questions you may have.

DATE 4/6

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: HB 679 HB 483

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Dal Smilie	AMA	HB 679	✓	
Glenna Wortman-Obrie	AAA Montana	HB483	←	
Ernie Nunn	Forest Service	HB 679		✓
John Connor	Dept of Justice	HB 483	←	
Craig L. Hoppe	MT Magistrates Assn	HB 483	✗	
Liz Lodman	FWP	HB679	✓	
Annie Bryan	FWP	"	✓	
Pat Foley	MTVRA/CTVA	HB679	✓	
Paca Abelin	MTVRA/CTVA	HB-679	←	
Chris Risbrudt	US Forest Service	HB679		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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